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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Guidelines for follow-up to concluding observations*

Introduction

1. At its thirtieth session, in May 2003, the Committee against Torture adopted a procedure for follow-up to concluding observations on reports of States parties submitted under article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (see A/58/44, para. 12). The procedure consists of the Committee identifying, among the recommendations in the concluding observations, those for which implementation is a priority and requesting additional information from the States parties, as established under rule 72, paragraphs 1 and 2, of the Committee's rules of procedure. That follow-up procedure has become an important means of assessing the degree to which compliance with the Committee's recommendations has had an impact. It has also become an integral part of the reporting cycle.

2. Since then, the Committee has periodically revised its follow-up procedure. At its fifty-third session, in November 2014, the Committee decided to establish a working group to review the procedure and present proposals on ways to strengthen it. At the fifty-fifth session, the working group, composed of three Committee members (Felice Gaer, Jens Modvig and Sapana Pradhan-Malla), presented a document aimed at identifying both old and new elements that would strengthen the procedure, thus contributing to harmonizing the treaty bodies' methods of work (see A/65/190, para. 33, and annex I, para. 40 (e) to (g)). At the same session, the Committee adopted the present guidelines.

Rapporteur for follow-up to concluding observations

3. In accordance with rule 72 of its rules of procedure, the Committee has at least one mandate holder in charge of the follow-up procedure. To date there has been one Rapporteur for follow-up to concluding observations at any given time.

4. The Rapporteur's responsibilities range from the adoption of concluding observations to the discontinuation of the follow-up procedure, which may coincide with the adoption of concluding observations made during the subsequent reporting cycle, when compliance by the State party under review with the procedure is assessed.

* Adopted by the Committee at its fifty-fifth session (27 July-14 August 2015).

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5. The Rapporteur analyses the information provided by States parties on the recommendations made in the framework of the follow-up procedure and assesses it in consultation with the country rapporteurs. That may include an assessment of the implementation plan prepared by the State party, if it has been provided. The Rapporteur shares his or her views on the assessment with the State party concerned.

6. At each session of the Committee, the Rapporteur presents, in public session, a progress report, a summary of which is included in the Committee's annual report to the General Assembly.

Criteria for identifying and selecting recommendations for follow-up

7. The recommendations selected for follow-up must contribute to the prevention of torture and the protection of victims, for example by resulting in:

(a) The strengthening of legal safeguards for people deprived of their liberty;

(b) The conduct of prompt and impartial investigations of alleged cases of torture or ill-treatment;

(c) The prosecution of suspects and the punishment of perpetrators of torture or ill-treatment;

(d) The provision of redress to victims.

8. Moreover, it should be possible for the recommendations to be implemented within one year.

9. In accordance with these criteria, the Committee selects a maximum of four recommendations for follow-up. The recommendations should be formulated in such a way as to facilitate their implementation and monitoring (i.e. they must be specific, measurable, attainable, realistic and time-bound). To the extent possible, the Committee will avoid selecting recommendations that include several components.

10. The selected recommendations are specifically identified in a paragraph at the end of the Committee's concluding observations. In this paragraph, the State party is requested to report to the Committee within a year on the measures taken to give effect to the recommendations. While the Committee expects States parties to implement all the recommendations in its concluding observations, States parties are requested to promptly and urgently implement the recommendations for follow-up in order, inter alia, to prevent torture from taking place, investigate allegations of torture or ill-treatment and provide redress to victims.

Implementation plan

11. States parties are encouraged to provide to the Committee, along with the report on the implementation of the recommendations for follow-up mentioned in paragraph 10, a voluntary plan for the implementation of all or some of the remaining recommendations included in the concluding observations. The Committee encourages States parties to start implementing the recommendations early on in the reporting cycle and to formulate a plan for and prioritize implementation. Specifically:

(a) The implementation plan should address some or all of the recommendations not selected for urgent follow-up and describe how, when and by whom those recommendations will be implemented during the upcoming reporting period;

(b) States parties wishing to hold a meeting with the Rapporteur relating to their follow-up report and the implementation plan will be invited to do so.

Follow-up report by States parties

12. When submitting a follow-up report, States parties should adhere to the following guidelines:

(a) The report should provide the Committee, through its Rapporteur, with sufficient information to allow for an assessment of whether the recommendations have been implemented. The report should also include a schedule for the implementation of all or some of the remaining recommendations;

(b) The report should be concise and not exceed 3,500 words;

(c) The report should be drafted in one of the six languages of the United Nations;

(d) An electronic version of the report, in Word, should be sent to cat@ohchr.org.

13. Upon submission, information provided by States parties under the follow-up procedure set out in article 19 will be made public on the Committee's web page.

Follow-up submissions by national human rights institutions, non-governmental organizations and other stakeholders

14. National human rights institutions, non-governmental organizations and other stakeholders may at any time after the adoption of the concluding observations submit written information to the Committee under the follow-up procedure. However, the Committee encourages these entities to submit that information within three months of the deadline for submission by the State party concerned of its follow-up report, as doing so allows for comments to the State party's report.

15. When submitting an alternative follow-up report, national human rights institutions, non-governmental organizations and other stakeholders should adhere to the following guidelines:

(a) The report should focus only on the implementation by the State party of recommendations identified for follow-up;

(b) The report should be concise and not exceed 3,500 words;

(c) The report should be drafted in one of the six languages of the United Nations;

(d) An electronic version of the report, in Word or PDF, should be sent to cat@ohchr.org.

16. Upon submission, reports provided by national human rights institutions, non-governmental organizations and other stakeholders will be made public on the Committee's web page.

Analysis of information on the status of implementation of the recommendations identified for follow-up

17. The Rapporteur for follow-up assesses whether all the issues identified by the Committee for follow-up have been addressed by the State party and whether the information provided responds to the Committee's concerns and recommendations. Information received from national human rights institutions, non-governmental organizations or other stakeholders will also be taken into consideration by the Rapporteur, along with other information that has come to his or her attention as an independent expert. According to rule 72, paragraphs 1 and 2, of the rules of procedure, the Rapporteur shall assess the information provided by the State party in consultation with the country rapporteurs.

18. The assessment carried out by the Rapporteur includes an assessment of the quality and extent of the information provided, as well as an assessment of the degree to which the recommendations identified for follow-up have been implemented. The assessment categories below are used by the Rapporteur in drafting replies to States parties on behalf of the Committee.

19. The information provided will be assessed, by follow-up recommendation, using the following classification:

(a) The information is thorough and extensive, and relates directly to the recommendations (satisfactory - 3);

(b) The information is thorough and extensive, but fails to respond fully to the recommendations (partly satisfactory - 2);

(c) The information is vague and incomplete and/or fails to address the recommendations (unsatisfactory - 1);

(d) The State party has not addressed the concern or recommendations in the response (no response - 0).

20. Implementation will be assessed, by follow-up recommendation, using the following categories:

(a) The recommendation has largely been implemented (the State party has provided evidence that sufficient action has been taken towards the full or almost full implementation of the recommendation - A);

(b) The recommendation has been partially implemented (the State party has taken substantive steps towards the implementation of the recommendation but further action is needed - B1);

(c) The recommendation has been partially implemented (the State party has taken initial steps towards implementation but further action is needed - B2);

(d) The recommendation has not been implemented (the State party has taken no action to implement the recommendation or the action taken has not addressed the situation - C);

(e) The information provided is insufficient to assess implementation (the State party has not provided enough information on the measures taken to implement the recommendation - D);

(f) The recommendation has been counteracted (the State party adopted measures that are contrary or have results contrary to the recommendations of the Committee - E).

21. The implementation plans will be graded as follows:

(a) The implementation plan largely addresses all of the Committee's recommendations (A);

(b) The implementation plan addresses some of the Committee's recommendations (B);

(c) The implementation plan has not been provided (C).

Communication sent by the Rapporteur for follow-up

22. The Rapporteur shall communicate with States parties under the follow-up procedure once their report has been received and assessed (i.e. between 15 and 18 months after the adoption of the concluding observations). Such communications shall reflect the analysis carried out by the Rapporteur, specify the pending issues and indicate a time frame for the reply, which shall be of no less than six months. A request for additional information shall be sent no later than six months after the submission of the State party's follow-up report. These communications are subject to approval by the country rapporteurs.

23. In case of partial or no implementation (categories B or C), the State party is encouraged to fully implement the recommendation before the next reporting cycle and to provide additional information, within a specific time frame or in the next periodic report, on specific passages of its previous reply that require clarification or on additional steps taken by the State party to implement the recommendation.

24. In case of insufficient information for an assessment to be made (category D), the Committee renews its request for information on the steps taken to implement the recommendation. In such cases, the State party is informed that its degree of compliance with the procedure will be reflected in the subsequent reporting cycle.

25. In case of measures taken that are contrary to the recommendation of the Committee (category E), the Rapporteur regrets that such measures were taken and/or reiterates the Committee's recommendation.

26. Follow-up communications sent to the State party, through its Permanent Representative, requesting further information may include an invitation to meet with the Rapporteur to clarify any remaining questions about the recommendations, the implementation plan and the assessment of their implementation. Should the State party not have implemented the recommendations, the Rapporteur may request from the State party an account of the obstacles that have prevented implementation.

27. If the State party fails to submit its report, the Rapporteur shall send a reminder. No more than two reminders should be sent. The first, sent around three months after the deadline for submission of the follow-up report, reminds the State party of the request for such a report, whereas the second, sent around six months after the deadline, shall contain a request for a meeting with the State party's Permanent Representative in order to further collaboration with the Committee.

28. The Rapporteur may request and hold consultations with State party representatives to obtain the information sought by the Committee, explain why the information is sought and agree on a date by which the information will be sent by the Permanent Mission. In preparing such meetings, the Rapporteur should consult with the country rapporteurs, as in other elements of the follow-up process.

Further steps in the follow-up procedure

29. Questions about recommendations for follow-up that have not been fully implemented and instances where the State party has failed to comply with the procedure shall be reflected in the list of issues or in the list of issues prior to reporting adopted during the next reporting cycle under a separate headline, entitled "Follow-up questions from the previous reporting cycle". If appropriate, follow-up issues may be repeated in the main section of the list of issues or in the list of issues prior to reporting in order to maintain the sequence of topics addressed.

30. The concluding observations adopted in the framework of the next reporting cycle shall similarly reflect the outcome of the follow-up procedure, in the light of the consideration of the periodic report. In case of compliance with the follow-up procedure and recommendations, this shall be mentioned under the section entitled "Positive aspects". In case of remaining follow-up questions, the concern shall be mentioned as the first item in the section headed "Principal subjects of concern and recommendations", under the subheading "Pending follow-up issues from previous the reporting cycle". Secretariat staff shall be informed of the requirements set out above to treat these follow-up issues as distinct from the rest of the list of issues prior to reporting, which may contain an article-by-article list of questions.

Discontinuation of the follow-up procedure

31. The follow-up procedure can be discontinued only if the Committee considers that the information submitted by the State party is satisfactory and the recommendations have been largely implemented (category A). In all other cases, the unimplemented recommendations will be incorporated into the subsequent reporting cycle.

Committee web page on the follow-up procedure

32. The recommendations identified for follow-up by the Committee, the information submitted by States parties, the letters sent by the Rapporteur for follow-up and the information submitted by national human rights institutions, non-governmental organizations and other stakeholders are part of the public procedure framing the submission of reports prepared under article 19 of the Convention and shall be posted on the Committee web page on the issue.[1]

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[1] See http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/FollowUp.aspx?Treaty=CAT&Lang=en.